



General Assembly

February Session, 2008

Raised Bill No. 5166

LCO No. 1396

01396_____BA_

Referred to Committee on Banks

Introduced by:
(BA)

AN ACT CONCERNING MORTGAGE PREPAYMENT PENALTIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-746c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 A high cost home loan shall not provide for or include the
4 following:

5 (1) For a loan with a term of less than seven years, a payment
6 schedule with regular periodic payments that when aggregated do not
7 fully amortize the outstanding principal balance, except that this
8 limitation does not apply to a loan with maturities of less than one
9 year if the purpose of the loan is a bridge loan, as used in 12 CFR
10 226.32, as from time to time amended, connected with the acquisition
11 or construction of a dwelling intended to become the borrower's
12 principal dwelling;

13 (2) A payment schedule with regular periodic payments that cause
14 the principal balance to increase;

15 (3) A payment schedule that consolidates more than two periodic

16 payments and pays them in advance from the proceeds, unless such
17 payments are required to be escrowed by a governmental agency;

18 (4) An increase in the interest rate after default or default charges in
19 excess of five per cent of the amount in default;

20 (5) A refund calculated by a method less favorable than the actuarial
21 method, as defined by Section 933(d) of the Housing and Community
22 Development Act of 1992, 15 USC 1615(d), as from time to time
23 amended, for rebates of interest arising from a loan acceleration due to
24 default;

25 (6) A prepayment penalty except as allowed by this subdivision. A
26 high cost home loan may provide for or include a prepayment penalty,
27 including a refund calculated according to the rule of 78s, as such term
28 is used in 12 CFR 226.32, as from time to time amended, if:

29 (A) The penalty can be exercised only for the first [three years] year
30 following consummation. No prepayment penalty shall exceed an
31 amount equal to two months interest on the balance prepaid or three
32 per cent of the balance prepaid, [for any payment occurring earlier
33 than one year after consummation of the loan, two per cent of the
34 balance prepaid for any payment occurring between one and two
35 years after consummation of the loan, and one per cent of the balance
36 prepaid for any payment occurring between two and three years after
37 consummation of the loan] whichever is less;

38 (B) The source of the prepayment funds is not a refinancing by the
39 lender or an affiliate of the lender; and

40 (C) At consummation, the borrower's total monthly debts, including
41 amounts owed under the high cost home loan, do not exceed fifty per
42 cent of the borrower's monthly gross income, as verified by the
43 borrower's signed financial statement, a credit report and payment
44 records for employment income;

45 (7) A mandatory arbitration clause or a waiver of participation in a

46 class action; or

47 (8) A call provision that permits the lender, in its sole discretion, to
48 accelerate the indebtedness. This prohibition shall not apply when
49 repayment of the loan is accelerated by bona fide default, pursuant to a
50 due-on-sale clause provision, or pursuant to another provision of the
51 loan agreement unrelated to the payment schedule including, but not
52 limited to, bankruptcy or receivership.

53 Sec. 2. Section 36a-519 of the general statutes is repealed and the
54 following is substituted in lieu thereof (*Effective October 1, 2008*):

55 In any transaction subject to part III of chapter 669, no mortgage
56 lender licensee shall impose any charge as a penalty for the
57 prepayment of principal of a secondary mortgage loan which exceeds
58 an amount equal to two months interest on the balance prepaid or five
59 per cent of the balance prepaid, whichever is less, provided no penalty
60 shall be imposed for any prepayment occurring more than [three
61 years] one year after the date of such loan.

62 Sec. 3. Section 36a-3 of the 2008 supplement to the general statutes is
63 repealed and the following is substituted in lieu thereof (*Effective*
64 *October 1, 2008*):

65 Other definitions applying to this title or to specified parts thereof
66 and the sections in which they appear are:

- T1 "Account". Sections 36a-155 and 36a-365.
- T2 "Additional proceeds". Section 36a-746e.
- T3 "Administrative expense". Section 36a-237.
- T4 "Advance fee". Sections 36a-485 of the 2008 supplement to
- T5 the general statutes, 36a-510 of the 2008 supplement to
- T6 the general statutes and 36a-615.
- T7 "Advertise" or "advertisement". Sections 36a-485 of the
- T8 2008 supplement to the general statutes and 36a-510 of
- T9 the 2008 supplement to the general statutes.

- T10 "Agency bank". Section 36a-285.
- T11 "Alternative mortgage loan". Section 36a-265.
- T12 "Amount financed". Section 36a-690.
- T13 "Annual percentage rate". Section 36a-690.
- T14 "Annual percentage yield". Section 36a-316.
- T15 "Annuities". Section 36a-455a.
- T16 "Applicant". Section 36a-736.
- T17 "APR". Section 36a-746a.
- T18 "Assessment area". Section 36a-37.
- T19 "Assets". Section 36a-70.
- T20 "Associate". Section 36a-184.
- T21 "Associated member". Section 36a-458a.
- T22 "Bank". Section 36a-30.
- T23 "Bankers' bank". Section 36a-70.
- T24 "Banking business". Section 36a-425.
- T25 "Basic services". Section 36a-437a.
- T26 "Billing cycle". Section 36a-565.
- T27 "Bona fide nonprofit organization". Section 36a-655.
- T28 "Branch". Sections 36a-145 of the 2008 supplement to the
- T29 general statutes, 36a-410 of the 2008 supplement to the
- T30 general statutes and 36a-435b.
- T31 "Branch or agency net payment entitlement". Section 36a-428n.
- T32 "Branch or agency net payment obligation". Section 36a-428n.
- T33 "Broker". Section 36a-746a.
- T34 "Business and industrial development corporation". Section 36a-626.
- T35 "Business and property in this state". Section 36a-428n.
- T36 "Capital". Section 36a-435b.
- T37 "Cash advance". Section 36a-564.
- T38 "Cash price". Section 36a-770.
- T39 "Certificate of incorporation". Section 36a-435b.
- T40 "Closely related activities". Sections 36a-250 and 36a-455a.
- T41 "Collective managing agency account". Section 36a-365.
- T42 "Commercial vehicle". Section 36a-770.
- T43 "Community bank". Section 36a-70.

- T44 "Community credit union". Section 36a-37.
- T45 "Community development bank". Section 36a-70.
- T46 "Community reinvestment performance". Section 36a-37.
- T47 "Connecticut holding company". Sections 36a-53 of the
- T48 2008 supplement to the general statutes and 36a-410 of
- T49 the 2008 supplement to the general statutes.
- T50 "Consolidate". Section 36a-145 of the 2008 supplement to
- T51 the general statutes.
- T52 "Construction loan". Section 36a-458a.
- T53 "Consumer". Sections 36a-155, 36a-676 and 36a-695.
- T54 "Consumer Credit Protection Act". Section 36a-676.
- T55 "Consumer debtor" and "debtor". Sections 36a-645 and
- T56 36a-800 of the 2008 supplement to the general statutes.
- T57 "Consumer collection agency". Section 36a-800 of the 2008
- T58 supplement to the general statutes.
- T59 "Consummation". Section 36a-746a.
- T60 "Controlling interest". Section 36a-276.
- T61 "Corporate". Section 36a-435b.
- T62 "Credit". Sections 36a-645 and 36a-676.
- T63 "Credit manager". Section 36a-435b.
- T64 "Creditor". Sections 36a-676, 36a-695 and 36a-800 of the
- T65 2008 supplement to the general statutes.
- T66 "Credit card", "cardholder" and "card issuer". Section 36a-676.
- T67 "Credit clinic". Section 36a-700.
- T68 "Credit rating agency". Section 36a-695.
- T69 "Credit report". Section 36a-695.
- T70 "Credit sale". Section 36a-676.
- T71 "Credit union service organization". Section 36a-435b.
- T72 "Credit union service organization services". Section 36a-435b.
- T73 "De novo branch". Section 36a-410 of the 2008 supplement
- T74 to the general statutes.
- T75 "Debt". Section 36a-645.
- T76 "Debt adjustment". Section 36a-655.
- T77 "Debt mutual fund". Sections 36a-275 and 36a-459a.

- T78 "Debt securities". Sections 36a-275 and 36a-459a.
- T79 "Debtor". Section 36a-655.
- T80 "Deliver". Section 36a-316.
- T81 "Deposit". Section 36a-316.
- T82 "Deposit account". Section 36a-316.
- T83 "Deposit account charge". Section 36a-316.
- T84 "Deposit account disclosures". Section 36a-316.
- T85 "Deposit contract". Section 36a-316.
- T86 "Deposit services". Section 36a-425.
- T87 "Depositor". Section 36a-316.
- T88 "Director". Section 36a-435b.
- T89 "Earning period". Section 36a-316.
- T90 "Electronic payment instrument". Section 36a-596 of the
- T91 2008 supplement to the general statutes.
- T92 "Eligible collateral". Section 36a-330.
- T93 "Equity mutual fund". Sections 36a-276 and 36a-459a.
- T94 "Equity security". Sections 36a-276 and 36a-459a.
- T95 "Executive officer". Sections 36a-263 and 36a-469c.
- T96 "Federal Credit Union Act". Section 36a-435b.
- T97 "Federal Home Mortgage Disclosure Act". Section 36a-736.
- T98 "Fiduciary". Section 36a-365.
- T99 "Filing fee". Section 36a-770.
- T100 "Finance charge". Sections 36a-690 and 36a-770.
- T101 "Financial institution". Sections 36a-41, 36a-44a, 36a-155, 36a-316,
- T102 36a-330, 36a-435b and 36a-736.
- T103 "Financial records". Section 36a-41.
- T104 "First mortgage broker". Section 36a-485 of the 2008
- T105 supplement to the general statutes.
- T106 "First mortgage correspondent lender". Section 36a-485 of
- T107 the 2008 supplement to the general statutes.
- T108 "First mortgage lender". Section 36a-485 of the 2008
- T109 supplement to the general statutes.
- T110 "First mortgage loan". Sections 36a-485 of the 2008
- T111 supplement to the general statutes, 36a-705 and 36a-715.

- T112 "Foreign banking corporation". Section 36a-425.
- T113 "General facility". Section 36a-580.
- T114 "Global net payment entitlement". Section 36a-428n.
- T115 "Global net payment obligation". Section 36a-428n.
- T116 "Goods". Sections 36a-535 and 36a-770.
- T117 "Graduated payment mortgage loan". Section 36a-265.
- T118 "Guardian". Section 36a-365.
- T119 "High cost home loan". Section 36a-746a.
- T120 "Holder". Section 36a-596 of the 2008 supplement to the
- T121 general statutes.
- T122 "Home banking services". Section 36a-170.
- T123 "Home banking terminal". Section 36a-170.
- T124 "Home improvement loan". Section 36a-736.
- T125 "Home purchase loan". Section 36a-736.
- T126 "Home state". Section 36a-410 of the 2008 supplement to
- T127 the general statutes.
- T128 "Immediate family member". Section 36a-435b.
- T129 "Insider". Section 36a-454b.
- T130 "Installment loan contract". Sections 36a-535 and 36a-770.
- T131 "Insurance". Section 36a-455a.
- T132 "Insurance bank". Section 36a-285.
- T133 "Insurance department". Section 36a-285.
- T134 "Interest". Section 36a-316.
- T135 "Interest rate". Section 36a-316.
- T136 "Lender". Sections 36a-746a and 36a-770.
- T137 "Lessor". Section 36a-676.
- T138 "License". Section 36a-626.
- T139 "Licensee". Sections 36a-510 of the 2008 supplement to the
- T140 general statutes, 36a-596 of the 2008 supplement to the
- T141 general statutes and 36a-626.
- T142 "Limited branch". Section 36a-145 of the 2008 supplement
- T143 to the general statutes.
- T144 "Limited facility". Section 36a-580.
- T145 "Loan broker". Section 36a-615.

- T146 "Loss". Section 36a-330.
- T147 "Made in this state". Section 36a-770.
- T148 "Managing agent". Section 36a-365.
- T149 "Manufactured home". Section 36a-457b.
- T150 "Material litigation". Section 36a-596 of the 2008
- T151 supplement to the general statutes.
- T152 "Member". Section 36a-435b.
- T153 "Member business loan". Section 36a-458a.
- T154 "Member in good standing". Section 36a-435b.
- T155 "Membership share". Section 36a-435b.
- T156 "Mobile branch". Section 36a-435b.
- T157 "Money order". Section 36a-596 of the 2008 supplement to
- T158 the general statutes.
- T159 "Money transmission". Section 36a-365.
- T160 "Mortgage insurance". Section 36a-725.
- T161 "Mortgage lender". Sections 36a-485 of the 2008
- T162 supplement to the general statutes, 36a-510 of the 2008
- T163 supplement to the general statutes and 36a-705.
- T164 "Mortgage loan". Sections 36a-261, 36a-265 and 36a-457b.
- T165 "Mortgage rate lock-in". Section 36a-705.
- T166 "Mortgage servicing company". Section 36a-715.
- T167 "Mortgagor". Section 36a-715.
- T168 "Motor vehicle". Section 36a-770.
- T169 "Multiple common bond membership". Section 36a-435b.
- T170 "Municipality". Section 36a-800 of the 2008 supplement to
- T171 the general statutes.
- T172 "Net outstanding member business loan balance". Section 36a-458a.
- T173 "Net worth". Sections 36a-441a, 36a-458a and 36a-596 of
- T174 the 2008 supplement to the general statutes.
- T175 "Network". Section 36a-155.
- T176 "Nonrefundable". Sections 36a-498 of the 2008
- T177 supplement to the general statutes and 36a-521 of
- T178 the 2008 supplement to the general statutes.
- T179 "Note account". Sections 36a-301 and 36a-456b.

- T180 "Office". Section 36a-316.
- T181 "Officer". Section 36a-435b.
- T182 "Open-end credit plan". Section 36a-676.
- T183 "Open-end loan". Section 36a-565.
- T184 "Organization". Section 36a-800 of the 2008 supplement to
- T185 the general statutes.
- T186 "Originator". Sections 36a-485 of the 2008 supplement to
- T187 the general statutes and 36a-510 of the 2008 supplement
- T188 to the general statutes.
- T189 "Out-of-state holding company". Section 36a-410 of the
- T190 2008 supplement to the general statutes.
- T191 "Outstanding". Section 36a-596 of the 2008 supplement to
- T192 the general statutes.
- T193 "Passbook savings account". Section 36a-316.
- T194 "Payment instrument". Section 36a-596 of the 2008
- T195 supplement to the general statutes.
- T196 "Periodic statement". Section 36a-316.
- T197 "Permissible investment". Section 36a-596 of the 2008
- T198 supplement to the general statutes.
- T199 "Person". Section 36a-184.
- T200 "Post". Section 36a-316.
- T201 "Prepaid finance charge". Section 36a-746a.
- T202 "Prepayment penalty". [Section] Sections 36a-746a and 36a-519, as
- T203 amended by this act.
- T204 "Prime quality". Section 36a-596 of the 2008 supplement
- T205 to the general statutes.
- T206 "Principal amount of the loan". Section 36a-510 of the
- T207 2008 supplement to the general statutes.
- T208 "Processor". Section 36a-155.
- T209 "Public deposit". Section 36a-330.
- T210 "Purchaser". Section 36a-596 of the 2008 supplement to
- T211 the general statutes.
- T212 "Qualified financial contract". Section 36a-428n.
- T213 "Qualified public depository" and "depository". Section 36a-330.

- T214 "Real estate". Section 36a-457b.
- T215 "Records". Section 36a-17.
- T216 "Related person". Section 36a-53 of the 2008 supplement
- T217 to the general statutes.
- T218 "Relocate". Sections 36a-145 of the 2008 supplement to the
- T219 general statutes and 36a-462a.
- T220 "Residential property". Section 36a-485 of the 2008
- T221 supplement to the general statutes.
- T222 "Retail buyer". Sections 36a-535 and 36a-770.
- T223 "Retail credit transaction". Section 42-100b.
- T224 "Retail installment contract". Sections 36a-535 and 36a-770.
- T225 "Retail installment sale". Sections 36a-535 and 36a-770.
- T226 "Retail seller". Sections 36a-535 and 36a-770.
- T227 "Reverse annuity mortgage loan". Section 36a-265.
- T228 "Sales finance company". Sections 36a-535 and 36a-770.
- T229 "Savings department". Section 36a-285.
- T230 "Savings deposit". Section 36a-316.
- T231 "Secondary mortgage broker". Section 36a-510 of the 2008
- T232 supplement to the general statutes.
- T233 "Secondary mortgage correspondent lender". Section 36a-
- T234 510 of the 2008 supplement to the general statutes.
- T235 "Secondary mortgage lender". Section 36a-510 of the 2008
- T236 supplement to the general statutes.
- T237 "Secondary mortgage loan". Section 36a-510 of the 2008
- T238 supplement to the general statutes.
- T239 "Security convertible into a voting security". Section 36a-184.
- T240 "Senior management". Section 36a-435b.
- T241 "Share". Section 36a-435b.
- T242 "Simulated check". Sections 36a-485 of the 2008
- T243 supplement to the general statutes and 36a-510 of the
- T244 2008 supplement to the general statutes.
- T245 "Single common bond membership". Section 36a-435b.
- T246 "Social purpose investment". Section 36a-277.
- T247 "Standard mortgage loan". Section 36a-265.

- T248 "Table funding agreement". Section 36a-485 of the 2008
- T249 supplement to the general statutes.
- T250 "Tax and loan account". Sections 36a-301 and 36a-456b.
- T251 "The Savings Bank Life Insurance Company". Section 36a-285.
- T252 "Time account". Section 36a-316.
- T253 "Travelers check". Section 36a-596 of the 2008 supplement
- T254 to the general statutes.
- T255 "Troubled Connecticut credit union". Section 36a-448a.
- T256 "Unsecured loan". Section 36a-615.
- T257 "Warehouse agreement". Section 36a-485 of the 2008
- T258 supplement to the general statutes.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2008</i> | 36a-746c |
| Sec. 2 | <i>October 1, 2008</i> | 36a-519 |
| Sec. 3 | <i>October 1, 2008</i> | 36a-3 |

Statement of Purpose:

To limit permissible prepayment penalties on mortgages.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]